

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

No. 3:19-CR-30003-008

MALIA ANNE MCENANEY

DEFENDANT

OPINION AND ORDER

Defendant Malia Anne McEnaney filed a motion¹ (Doc. 691) to modify her sentence pursuant to the First Step Act amendments to 18 U.S.C. § 3582(c). Defendant's motion also requests the appointment of counsel to assist in the filing of her motion. The Government filed a response (Doc. 695) in opposition and an exhibit (Doc. 696) under seal. The Court has reviewed other documents on the docket, including the final presentence investigation report (Doc. 383). The motion will be DENIED.

The Court may modify a term of imprisonment on motion by a defendant if the defendant has exhausted BOP administrative remedies or that process has stalled for 30 days, extraordinary and compelling reasons consistent with Sentencing Commission policy statements warrant the modification, and a consideration of 18 U.S.C. § 3553(a) factors supports modification. 18 U.S.C. § 3582(c).

On August 21, 2019, Defendant pled guilty to conspiracy to distribute a mixture or substance containing methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and 846. On March 4, 2020, Defendant was sentenced to 60 months of imprisonment and three years of supervised release. The Government agrees that Defendant has exhausted her administrative remedies. (Doc. 695, p. 4).

¹ The motion contained an exhibit (Doc. 691-1) which was filed under seal.

Defendant argues there are several extraordinary and compelling reasons justifying compassionate release. Defendant's motion represents that her husband suffers from several chronic medical conditions including grand mal seizures. Defendant also attached medical records to her motion demonstrating that her daughter suffers from Stage 4 kidney disease. Defendant argues that her husband and daughter's medical conditions are an extraordinary and compelling reason justifying compassionate release. Defendant has been incarcerated for 22 months and is scheduled to be released on October 9, 2022.

The motion will be denied in this case because the § 3553(a) factors do not support modification of Defendant's sentence. Specifically, the Court believes that the need to protect the public from further crimes of the defendant does not support modification due to the high likelihood of Defendant's recidivism. Defendant was a minor participant in a large-scale drug trafficking conspiracy based in Harrison, Arkansas. In the plea agreement, Defendant admitted to purchasing a quantity of methamphetamine from the leaders of the conspiracy. At sentencing, the Court imposed a sentence of 60 months, a 91-month variance from Defendant's guideline range. The Court also noted at sentencing that Defendant has a lengthy criminal history and was the only member of the conspiracy to qualify for career offender status. From the record, it is clear Defendant's repeated criminal activities stem from her addiction to drugs. Defendant is currently a participant in the Residential Drug Abuse Program ("RDAP") and is scheduled to complete the program on November 5, 2021. The Court is hopeful that program will enable her to address her drug addiction and prevent her from recidivating.

The Court also finds Defendant's time served to date is not significant enough to reflect the seriousness of the offense. Though Defendant's circumstances merited a large downward variance, her offense was sufficiently serious to merit imprisonment for a longer term than she has

served thus far. Because of the high risk of recidivism and the fact that Defendant has not yet completed RDAP, the 3553(a) factors do not support modification.

IT IS THEREFORE ORDERED that Defendant's motion (Doc. 691) will be DENIED.

IT IS FURTHER ORDERED that Defendant's motion to appoint counsel will be TERMINATED AS MOOT.

IT IS SO ORDERED this 20th day of May, 2021.

/s/ P. K. Holmes, III

P.K. HOLMES, III
U.S. DISTRICT JUDGE